

December 13, 2004

Dick Hosford & Laurie Oakland  
Game Ranch Manager & Lodge Manager

The Lodge At Diamond Cross, LLC  
29 Diamond Cross Ranch Lane  
Birney, MT 59012

Surface Transportation Board  
Case Control Unit  
Washington, DC 20423  
Attn: Kenneth Blodgett  
STB Docket No. FD 30186 (Sub-No. 3)

Re: Dick Hosford's Comments on STB's Tongue River III DSEIS

Dear Mr. Blodgett:

Thank you for the opportunity to review and provide comments to the Draft Supplemental Environmental Impact Statement (SEIS) concerning the construction and operation of the proposed Tongue River Railroad - Western Alignment.

We are game ranch, hunting and recreational lodge managers with property affected by the proposed Tongue River Railroad. I have lived in the area all my life and rely on the ranch for the Big Game hunting business for my family's continued livelihood. The natural resources, the protection of the environment and the future of our well being are contingent upon the Tongue River Valley being protected in every way that it can. We believe that the Proposed Actions as described in this DSEIS will have a negative impact on all these areas.

We have great concerns about the effects that the Proposed Western Alignment described in the Tongue River III Draft Supplemental Environmental Impact Statement (DSEIS) and the proposed realignment to the Tongue River I and Tongue River II projects will have on the environment of the Tongue River Basin and the related communities including this game ranch.

This letter serves as an expression of my concern both about Tongue River III and the sufficiency of the DSEIS in reviewing all relevant matters, including the re-opening of only portions of Tongue River I and II. It is hard to understand how the Board can rely on EIS' that are nearly 10 and 20 years old respectively. We don't believe that the mitigation measures listed

by the Board include any enforcement to ensure that the railroad will adequately take our fears and concerns seriously and ensure that they do what the Board recommends.

We respectfully urge the Board to actions immediately to ensure that a new environmental analysis of the entire line is completed before any action is taken by the Board and to urge that the Board include mitigation measures that are enforceable to the letter of the law. We do not believe it is responsible to allow the railroad to begin construction until the community has had an opportunity to review and comment on all the actions to protect our home and our environment, and the railroad presents to the community a comprehensive plan for both.

**I. THE PROPOSED ACTION DOES NOT PRESERVE THE ENVIRONMENTAL INTEGRITY OF THE TONGUE RIVER AND THE TONGUE RIVER RESERVOIR.**

We rely on the water of the Tongue River and Tongue River Reservoir for irrigation and other uses, including that of the health and well being of our livestock and the well being of the game animals that rely on use of the river. The proposed action by the Board will dramatically increase sedimentation in the river as a result of the Western Alignment and will impair the water used by our business and relied upon by our game animals. The new route would increase the number of non-perennial stream crossings, nearly double the volume of earth moved (by seven million cubic yards) and double the potential increase in sediment load (tons/year) in the Tongue River. DSEIS xxi.

The State of Montana, recognizing the present water quality problems of the Tongue River, has assigned TMDLs to prevent further deterioration of water quality and to improve the hydrology of the Basin. Despite the recognition that the Tongue River watershed needs improvement, the SEA recommends approval of a project that it concludes would “increase[] sediment loads and suspended solids due to (1) active construction in waterways during installation of bridges and culverts; (2) changes in surface water patterns and shallow aquifer flow patterns due to topographic and drainage-pattern changes (e.g. cut and fill and the crossing of drainages); and (3) the temporary effects of water consumption for dust suppression.” DSEIS 4-108.

The Western Alignment would clearly threaten the Tongue River. The SEA concedes that the Proposed Action would increase sedimentation, increase the potential for toxic spills, and cause slumping on the canyon walls. DSEIS 4-99, 4-105 – 4-108. By choosing the Proposed Action, which travels along the Tongue River, the STB has endangered the river. The DSEIS suggests that the construction of the Western Alignment will require substantially more water use during the peak irrigation season (a season during which the River already has a low water level) than the alternative actions. DSEIS 4-115. While the SEA concludes that this will not affect

water availability, the DSEIS does not contemplate the change in water quality during this period nor does it provide any site-specific analysis as to flow levels at various points along the river. Likewise, the DSEIS does not address how increased sedimentation and low water levels would affect wildlife and game animals. In fact, while the SEA acknowledges that the Western Alignment crosses more non-perennial streams than other alternatives it provides no analysis as to how the project will affect those streams. DSEIS 4-28. Before approving the Proposed Action, we respectfully request that the Board require a site-specific survey of the impacts of the proposed Western Alignment on the feeder non-perennial, ephemeral and intermittent streams it will cross and the subsequent effects on wildlife and game animals.

We are also concerned that the DSEIS does not adequately evaluate the changes in the water quality and drainage in the Tongue River Basin since the Tongue River I and II EISs were completed. It appears that the extent of the analysis is a notation that the new alignment will be further from the river and thus “the proposed Tongue River I and Tongue River II alignment would not affect the normal variations in stream flows that occur in the Tongue River Valley and that no mitigation is required to address variations in streamflows.” DSEIS 5-15. The effects of site-specific location changes in alignment should be evaluated before approval – while distance on a map may appear to indicate less of an impact, this is not necessarily indicative of the change’s impact to the Tongue River. Site-specific hydrology corresponding with the changes in the alignment must be addressed. Before approving the Proposed Action, we respectfully request that the Board require a site-specific survey of the impacts of the entire Tongue River Railroad project on the Tongue River and Reservoir.

The DSEIS assumes away many of the potential harms, which are not quantified or specified, by offering mitigation measures to protect the river. It is hard to understand how the DSEIS can make such assumptions, based on little to no quantitative research. It is also hard to understand how the Board can be assured these mitigation measures will ensure that the railroad will ensure the safe conduct of the environment and our lands when these mitigation measures have no enforcement mechanisms included in them. It is also hard to understand how the SEA assumes that the mitigation measures will be effective without specifying how they will be effective. The language of the Mitigation Measures is clearly unenforceable in its current state. Mitigation Measure 49 is described as a mechanism to protect non-perennial streams at railroad crossings by the installation of culverts. SEA states “if imposed and implemented, this mitigation measure would ensure that the impacts resulting from the construction of culverts... would not be significant.” DSEIS 4-114. Not only is there no analysis as to how this would be effective, the plain text indicates that implementation and enforcement is questionable.

While cognizant of the many mitigation measures that the SEA lists in the DSEIS, we are concerned that no mechanism to enforce the mitigation measures exists. Even if enforced, there

is little discussion in the DSEIS of the efficacy of the mitigation measures with respect to the ensuring that the River remains clean. Without more research, data and analysis on the impact of the Western Alignment to Tongue River Basin, or on the efficacy and impact of the mitigation measures it appears inappropriate to approve the Proposed Action. Before approving the Proposed Action, we request that the Board require analysis which quantifies and specifies the site-specific environmental damage to the river, and describes the enforcement mechanism for the various mitigation measures and how those mitigation measures will work given the specific hydrology of the Tongue River Basin.

## **II. NEGATIVE IMPACTS ON OUR LIVELIHOOD AND THE SAFETY OF OUR COMMUNITY**

As a resident of the Tongue River Basin for 49 years and as someone who is dependent on the lodge for our economic well being, we are very concerned about the effects of the Railroad. Our business provides huge economic potential to the greater community by bringing in larger numbers of tourists than ever before. This helps with downstream positive economic impact that had not existed before and will be hurt by the railroad operations in a number of ways.

As a gaming lodge, our business relies on the health and well being of big game animals, many of which will be hurt or killed by the railroad. We also rely on the broader environment in which these animals live which would be negatively affected by the Proposed Action. The loss of any of our wildlife means a loss of tens of thousands of dollars to our lodge, which could ultimately bankrupt our business. The deer population has been managed on this game ranch for over 30 years, and has proven to provide a healthy environment for which the deer can flourish. Again, there is apparently no recourse for landowners if the railroad decides against building a wildlife passes over the railroad for the wild animals that we rely on to run our business. Before approving the Proposed Action, we respectfully request that the Board require an analysis of the effect of severing wildlife habitat, and include enforcement mechanisms and official recourse for us if the railroad does not undertake the actions requested by the Board.

We are very concerned that the SEA's analysis of the economic effect was unbalanced in its review. While the DSEIS provides a thorough analysis of how building the railroad will benefit the railroad company and increase employment in Sheridan, Wyoming, it is absolutely lacking in any analysis of the negative economic effects on people like me who live and work in this community. We respectfully request that the Board do an in-depth analysis on what the economic harm will be to the landowners like myself before it is concluded that the railroad will be a boon to our area.

### **SAFETY CONCERNS:**

Wildfires are a tremendous concern both for the sake of our land, as well as for the area wildlife. Railroad lines, as the SEA acknowledges, spread noxious weeds to the lands they cross and are more likely to start wildfires along their path. DSEIS 4-65. The State of Montana Water Resource Division has also noted their concern for this issue in their filing as well. STB Docket No. FD 30186 (Sub-No.3) November 30, 2004 filing. The DSEIS addresses the wildfire issue by describing potential mitigation measures but does not quantify the risk of wildfires, which we understand to be great. In fact, the SEA only provides percentage risks of fires compared to other sources of fire, but does not provide the needed analysis for accurate public evaluation – how many fires can the Tongue River Basin expect as a result of the Proposed Action? DSEIS 4-65. The SEA suggests that the average railroad fire consumes 90 acres as if this were not a significant risk. *Id.* A 90-acre burn can be a tremendous loss to habitat and is an extreme danger to game animals. The DSEIS fails to evaluate whether local conditions suggest larger or smaller fires or whether the 90-acre size is appropriate for the Basin. Before approving the Proposed Action, we respectfully request that the Board require an analysis of the actual likelihood of fire and noxious weeds by this railroad in this canyon and to require an explanation of how the mitigation measures will actually prevent fire and the spread of noxious weeds.

Another significant concern is the risk that increased railroad crossings brings to the community. With trains rumbling across roads (both public and private) more than once an hour, delays are inevitable. This is particularly troublesome with regard to emergency vehicles and is an additional burden on the state and local community to provide the critical service to our area. The SEA acknowledges this concern but suggests that the delays may be minor. Yet, time resulting from these delays can be the difference between life and death in an emergency situation. Moreover, there will be an increase in traffic during construction of the railroad, as numerous workers will be traveling on local roads. The mitigation measures clearly have not taken into consideration the health and welfare of those of us who have lived in this area for generations and are completely inadequate. The SEA suggests that “contractors will be asked to provide central transportation to the work site” and that speed limits would be strictly enforced. DSEIS 4-88, 4-129. Yet, there is no discussion of how these measures will be enforced.

#### NOISE AND DUST ISSUES:

The increase in airborne dust is a great concern as well, having a potentially negative affect on the health of the area cattle and wild animals to which my livelihood is tied.

As a tourist attraction, the guests that come to hunt at the ranch and stay in the lodge, also expect to be able to enjoy the tranquility and peacefulness of the quiet and scenic country. The Proposed Action would significantly change this and have a negative impact on all of our current guests and our ability to attract new guests from around the country and around the

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globe. The mitigation measures proposed by the Board [MM74 and 75] specifically direct the railroad operations to take place during the weekday and the daylight hours, precisely during our prime operating hours.

As expressed above, we have serious reservations about the impact of the Proposed Action on the Tongue River Basin environment, my business and my community. We do not believe that the analysis provided in the DSEIS truly researches and provides an in depth understanding o the true impacts on our community and our livelihood. It is hard to imagine how the Board can summarily decide that allowing the railroad to proceed is worth the potential impact of bankrupting my home and my livelihood. We respectfully request that the Board require a complete study and analysis of the concerns we have raised, provide adequate enforceable measures that are transparent to all of us who live here, and require that a new environmental impact study be conducted on the entire railroad line in order to adequately understand the true impacts of the railroad in our community.

We thank the Board for its review and response of these issues as well as the Board's concern and focus that the impacts of the railroad on a community that we have lived in for 49 years be addressed in a clear and focused manner. There are many complex issues associated with this proceeding, and we appreciate the Board's understanding of the depth and breadth of these impacts.

Regards,

Dick Hosford  
Laurie Oakland